

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

VERA THOMPSON, DONNA BOWLEN and
FIRST FINANCIAL TRUST COMPANY, as
Personal Representatives of the ESTATE OF
BRENDA GONZALES,

Plaintiffs,

Civil No. 01-1088 WJ/JG

BURLINGTON NORTHERN SANTA FE
RAILWAY CORPORATION, a Texas corporation,
JULIAN RUBIO, JARET T. WOOTTON,
LESTER CISNEROS, and JOHN DOES IV,
in their individual capacities,

Defendants.

MEMORANDUM OPINION AND ORDER DENYING EXTENSION

THIS MATTER comes before the Court upon Plaintiff's Expedited Motion For Additional Time to Respond to Defendants' Motion, filed December 3, 2002 (**Doc. 82**) and Stipulated Motion to Extend Time for Response to Motions For Summary Judgment and Motions in Limine, filed November 26, 2002 (**Doc. 81**). For reasons given below, the former motion will be denied, and the latter one will be granted.

Plaintiffs' Motion for Additional Time to Respond to Defendants' Motions

Plaintiffs request an extension of time to respond to Defendants' motion in limine (Doc. 72) and Defendants' motion for summary judgment (Doc. 70). Plaintiffs filed a motion to remand on November 20, 2002.¹ On the theory that a favorable ruling on the motion to remand would obviate the need to respond to Defendants' motions, Plaintiffs seek an extension until the Court

¹ Defendants have not yet responded to the motion to remand.

decides the remand issue. Defendants oppose such an extension.


Plaintiffs essentially request a stay in this case which I find is not warranted at this stage in the litigation. The argument that an open-ended extension of time would serve the interest of judicial economy is a curious one, given that Plaintiffs filed the motion for remand over a year from the time Defendants' removed the case to federal court (Doc. 1), and that this Court has already invested considerable resources passing on both discovery and dispositive issues presented to the Court for resolution. Further, this case is presently set for trial (jury selection) on February 3, 2003 (Doc. 66). Therefore, Plaintiffs' Motion for Additional Time to Respond to Defendants' Motions is denied.

However, Defendants have concurred in Plaintiffs' request for a specific extension of time to December 16, 2002 in which to respond to their motion in limine and motion for summary judgment. I will grant this request. Beyond December 16, 2002, I find that no additional time is justified. It is true that in the event the motion to remand is granted, Plaintiffs will have expended extra time and money in responding to motions that may become moot. Plaintiffs bear that burden, having chosen to file the motion to remand so close upon the trial date. On the other hand, should the motion to remand be denied, Plaintiffs' responses should be available to the Court immediately for their consideration, in light of the proximity to the trial date.

THEREFORE,

IT IS ORDERED that Plaintiff's Expedited Motion For Additional Time to Respond to Defendants' Motion (**Doc. 82**) is hereby DENIED;

IT IS FURTHER ORDERED that the parties' Stipulated Motion to Extend Time for Response to Motions For Summary Judgment and Motions in Limine (**Doc. 81**) is hereby GRANTED.



UNITED STATES DISTRICT JUDGE